

MT LEGISLATIVE HISTORY

Chapter 591 1991

Bill H _____ S 157

Original bill & hist. ✓C

H. Committee on State Administration

S. Committee on State Administration

Hearing Date(s) Mar 12 ✓C

Hearing Date(s) Jan 28 ✓C

Mar 13 ✓C

Jan 29 ✓C

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Date Out Mar 13 ✓C

Jan 29 ✓C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____

Report _____

2/19 SIGNED BY GOVERNOR
CHAPTER NUMBER 39

EFFECTIVE DATE: 10/01/91

SB 156 INTRODUCED BY DOHERTY, ET AL.
CLARIFY & GENERALLY REVISE INITIATIVE
PETITION AND REFERENDUM LAWS
BY REQUEST OF SECRETARY OF STATE

1/21	INTRODUCED		
1/22	REFERRED TO LOCAL GOVERNMENT		
1/22	FIRST READING		
1/23	REFERRED TO STATE ADMINISTRATION		
1/28	HEARING		
1/29	COMMITTEE REPORT—BILL PASSED AS AMENDED	50	0
2/01	2ND READING PASSED AS AMENDED	46	0
2/02	3RD READING PASSED		
	TRANSMITTED TO HOUSE		
2/04	FIRST READING		
2/04	REFERRED TO STATE ADMINISTRATION		
3/08	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED	86	3
3/16	2ND READING CONCURRED	95	3
3/18	3RD READING CONCURRED		
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS CONCURRED	47	0
3/25	3RD READING AMENDMENTS CONCURRED	47	0
3/28	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 359		

EFFECTIVE DATE: 10/01/91

SB 157 INTRODUCED BY VAUGHN, ET AL.
GENERALLY REVISE ELECTION LAWS
BY REQUEST OF SECRETARY OF STATE

1/21	INTRODUCED		
1/22	REFERRED TO STATE ADMINISTRATION		
1/22	FIRST READING		
1/28	HEARING		
1/29	COMMITTEE REPORT—BILL PASSED AS AMENDED	45	5
2/01	2ND READING PASSED AS AMENDED	38	9
2/02	3RD READING PASSED		
	TRANSMITTED TO HOUSE		
2/04	FIRST READING		
2/04	REFERRED TO STATE ADMINISTRATION		
3/12	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED	85	3
3/16	2ND READING CONCURRED	92	6
3/18	3RD READING CONCURRED		
	RETURNED TO SENATE WITH AMENDMENTS		
3/23	2ND READING AMENDMENTS CONCURRED	47	0
3/25	3RD READING AMENDMENTS CONCURRED	47	1
4/02	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/03	TRANSMITTED TO GOVERNOR		
4/09	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
4/17	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	26	22
	TRANSMITTED TO HOUSE		
4/18	2ND READING GOVERNOR'S AMENDMENTS NOT CONCURRED	63	35

RETURNED TO SENATE
4/20 TRANSMITTED TO GOVERNOR FOR RECONSIDERATION
4/24 SIGNED BY GOVERNOR
CHAPTER NUMBER 591

EFFECTIVE DATE: 10/01/91

SB 158 INTRODUCED BY JERGSON, ET AL.
ESTABLISH SYSTEM FOR TRANSFER OF
FARM IMPLEMENT DEALERSHIPS

1/21	INTRODUCED		
1/22	REFERRED TO BUSINESS & INDUSTRY		
1/22	FIRST READING		
1/23	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
1/30	HEARING		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED	49	0
2/04	2ND READING PASSED	49	0
2/05	3RD READING PASSED		
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/06	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/07	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/15	HEARING		
2/19	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	73	22
3/11	3RD READING CONCURRED	79	19
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/18	TRANSMITTED TO GOVERNOR		
3/23	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
3/28	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	49	0
4/01	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	48	0
4/09	TRANSMITTED TO HOUSE		
	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	81	15
	RETURNED TO SENATE		
4/17	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 522		

EFFECTIVE DATE: 4/22/91

SB 159 INTRODUCED BY MANNING
EXEMPT GOLF CARTS FROM FEE IN LIEU OF TAX

1/21	INTRODUCED		
1/22	FISCAL NOTE REQUESTED		
1/22	REFERRED TO TAXATION		
1/22	FIRST READING		
1/25	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/30	HEARING		
1/31	COMMITTEE REPORT—BILL PASSED		
2/02	2ND READING PASSED	45	1
2/04	3RD READING PASSED	45	4
	TRANSMITTED TO HOUSE		
2/05	FIRST READING		
2/05	REFERRED TO TAXATION		
2/19	HEARING		

SENATE BILL NO. 157

INTRODUCED BY VAUGHN, J. BROWN, BECKER, COCCHIARELLA
BY REQUEST OF THE SECRETARY OF STATE

IN THE SENATE

JANUARY 22, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FIRST READING.

JANUARY 29, 1991

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 30, 1991

PRINTING REPORT.

ON MOTION, CONSIDERATION PASSED.

FEBRUARY 1, 1991

SECOND READING, DO PASS AS AMENDED.

FEBRUARY 2, 1991

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 38; NOES, 9.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1991

INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FIRST READING.

MARCH 13, 1991

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 16, 1991

SECOND READING, CONCURRED IN.

MARCH 18, 1991

THIRD READING, CONCURRED IN.
AYES, 92; NOES, 6.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 23, 1991

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS

CONCURRED IN.

MARCH 25, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *157*
2 INTRODUCED BY *Thayer J. Brown*
3 BY REQUEST OF THE SECRETARY OF STATE
4 *Becker Caschavilla*
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO ELECTIONS; PROHIBITING INDEPENDENT
7 CANDIDATES FROM BEING ASSOCIATED WITH A POLITICAL PARTY FOR
8 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING FOR INSPECTION OF
9 BALLOTS DURING A CANVASS; PROVIDING FOR STAGGERED TERMS FOR
10 FIRE DISTRICT TRUSTEES; AMENDING SECTIONS 7-4-2611,
11 7-13-2214, 7-13-2225, 7-13-2241, 7-13-2247, 7-33-2106,
12 13-4-106, 13-10-503, 13-13-114, 13-13-115, 13-13-212,
13 13-14-115, 13-15-111, 13-15-403, 13-19-106, 13-19-206,
14 13-19-306, 13-19-308, 13-19-311, 13-19-312, 13-37-201, AND
15 13-37-225, MCA; AND REPEALING SECTIONS 7-13-2237, 7-13-2238,
16 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245,
17 MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 7-4-2611, MCA, is amended to read:

21 **"7-4-2611. Role and duties of county clerk and election**
22 **administrator.** (1) The county clerk of any county is also
23 clerk of the county commissioners and ex officio recorder.
24 Any duty imposed by law upon such officer, either as county
25 clerk, clerk of the county commissioners, or recorder, shall

1 be performed by the county clerk, and any official act
2 performed or certified by the county clerk shall be as valid
3 and effectual as if performed and certified to by him as
4 clerk of the county commissioners or as recorder.

5 (2) The county clerk must:

6 (a) take charge of and safely keep or dispose of
7 according to law all books, papers, maps, and records which
8 may be filed or deposited in his office;

9 (b) record all the proceedings of the board;

10 (c) make full entries of all its resolutions and
11 decisions on all questions concerning the raising of money
12 for and the allowance of accounts against the county;

13 (d) record the vote of each member on any question upon
14 which there is a division or at the request of any member
15 present;

16 (e) sign all orders made and warrants issued by order
17 of the board for the payment of money and certify the same
18 to the county treasurer;

19 (f) record the reports of the county treasurer of the
20 receipts and disbursements of the county;

21 (g) preserve and file all accounts acted upon by the
22 board;

23 (h) preserve and file all petitions and applications
24 for franchises and record the action of the board thereon;

25 (i) record all orders levying taxes;

1 (j) designate upon every account allowed by the board
2 the amount allowed and deliver to any person who may demand
3 it a certified copy of any record in his office or any
4 account on file therein;

5 (k) as often as a new township is organized or the
6 boundaries of any township are altered, immediately make out
7 and transmit to the secretary of state a certified statement
8 of the names and boundaries and the boundaries of any
9 township altered;

10 (l) keep such other records and books and perform such
11 other duties as are prescribed by law or by rule or order of
12 the board.

13 (3) ~~A---county---clerk---and---recorder~~ An election
14 administrator shall file, code, and cross-index all reports
15 and statements filed as prescribed by the commissioner of
16 political practices.

17 (4) ~~A---county---clerk---and---recorder~~ An election
18 administrator shall make statements and other information
19 filed under the provisions of Title 13, chapters 35, 36, and
20 37, in his office available for public inspection and
21 copying during regular office hours and make copying
22 facilities available free of charge or at a charge not to
23 exceed actual cost."

24 **Section 2.** Section 7-13-2214, MCA, is amended to read:

25 "7-13-2214. Order creating district upon sufficient

1 favorable vote. (1) If at least 40% of all registered voters
2 residing within the proposed district have voted and if a
3 majority of the votes cast at such election in each
4 municipal corporation or part thereof and in the
5 unincorporated territory of each county included in such
6 proposed district shall be in favor of organizing such
7 county district, said board of county commissioners of each
8 such county shall, by an order entered on its minutes,
9 declare the territory enclosed within the proposed
10 boundaries duly organized as a county water and/or sewer
11 district under the name theretofore designated.

12 (2) ~~The county-clerk election administrator~~ of each
13 such county shall immediately cause to be filed with the
14 secretary of state and shall cause to be recorded in the
15 office of the county clerk and recorder of the county or
16 each county in which such district is situated a certificate
17 stating that such a proposition was adopted."

18 **Section 3.** Section 7-13-2225, MCA, is amended to read:

19 "7-13-2225. Combination of elections. (1) The board of
20 county commissioners in its discretion may combine in one
21 election the election on the formation of the district, the
22 election of directors, and the election on incurring a
23 bonded indebtedness so that the electors of the district may
24 vote on all of these matters on the same date and at the
25 same time.

(2) If the elections are combined, the board of county commissioners shall so declare by resolution containing the provisions required by 7-13-2321. If the elections are combined, the notice of the election shall contain the names of the candidates and the details concerning the bonded indebtedness.

(3) Candidates for the office of director shall be nominated in the manner required by ~~7-13-2235--through 7-13-2247~~ 7-13-2241 and 7-13-2246."

Section 4. Section 7-13-2241, MCA, is amended to read:

"7-13-2241. Presentation Filing of petition of nomination. (1) A petition of nomination, ~~consisting-of-not less-than-five-individual-certificates signed by at least five electors of the district~~ for any one candidate, may be ~~presented-to~~ filed with the election administrator not earlier than ~~90~~ 135 days or later than 75 days before the election. The election administrator shall endorse thereon the date upon which the petition was presented to him.

(2) If the district lies in more than one county, the petition for nomination shall be presented to the election administrator whose county contains the largest percentage of the territory of the district and the election administrator shall fulfill all duties assigned to election administrators in elections under this part and part 23.

(3) If the petition conforms to this section, the

election administrator shall place the name of the petitioner on the ballot as a candidate for director of the district."

Section 5. Section 7-13-2247, MCA, is amended to read:

"7-13-2247. Preservation of petitions and-certificates. The county clerk shall preserve in his office for a period of 2 years all petitions of nomination ~~and-all--certificates belonging-thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners shall hold staggered terms of office until their successors are elected or appointed and qualified as hereinafter provided.

(b) The initial trustees' terms of office shall be drawn by lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees shall be elected as provided in subsection (3) of this section, 13-1-104(3), and 13-1-401 or appointed as provided in subsection (4) of this section. The term of office shall be 3 years beginning at the first district

meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies shall be made by the county governing body and appointees shall hold office until the next regular election. All electors, as defined in Title 13, who reside in the district are eligible to vote in the election, including any holder of title to lands within the district who presents a proof of interest in such land at the polling place, regardless of whether he is registered to vote.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If no nominations are made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices.

(5) The trustees shall organize by choosing a chairman and appointing one member to act as secretary."

Section 7. Section 13-4-106, MCA, is amended to read:

"13-4-106. Compensation of judges. (1) Election Except as provided in subsection (2), election judges shall be paid at the prevailing federal minimum wage for the number of hours worked during an election plus the number of hours

spent at the instruction session. Mileage may be paid to election judges for attending instruction sessions.

(2) The chief election judge may be paid at a rate higher than the other election judges and may be reimbursed for the actual expenses of transporting election materials.

(3) The election administrator shall certify the amount due each election judge to the county governing body as soon after an election as all records necessary for such certification are received."

Section 8. Section 13-10-503, MCA, is amended to read:

"13-10-503. Filing deadlines. (1) A petition for nomination, accompanied by the required filing fee, shall be filed with the same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306. In the event there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing.

(2) Except as provided in 13-10-504, each petition shall be filed ~~on--or~~ before the ~~filing deadline for the~~ scheduled primary election or the filing deadline for the special or general election if no primary election is scheduled."

NEW SECTION. Section 9. Independent candidates --

association with political parties not allowed. (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having made contributions to a party, having run for office as a partisan candidate, or having held an office with a political party designation.

Section 10. Section 13-13-114, MCA, is amended to read:

"13-13-114. Marking precinct register book before elector votes. (1) Before an elector is permitted to receive a ballot or vote, he shall sign his name on the place designated in the precinct register. Before signing the register, the elector shall state his name and current address. If the name or address is not as listed in the precinct register, the elector must complete a transfer form or new registration form to correct the information. The election judges shall write "transfer form" or "registration form" beside the name of any elector submitting a form. No elector may sign the precinct register unless his name and address are the same as shown in the register or the proper corrections have been made.

~~(2) The election judges shall require an elector not able to sign his name to produce two electors who shall sign~~

~~an affidavit stating that the elector is the individual whose name and address appears in the precinct register before one or more of the election judges on a form prescribed by the secretary of state. The affidavit shall be filed by the election judges and returned to the election administrator with the returns of the election. One of the judges shall write the elector's name, noting the fact of his inability to sign, and the names of the two electors signing the affidavit.~~

(2) If the elector is not able to sign his name to the precinct register, a fingerprint or other identifying mark may be used.

(3) If the elector fails or refuses to sign his name or, if unable to write, fails to procure two electors who will take the oath required provide a fingerprint or other identifying mark, he may not vote."

Section 11. Section 13-13-115, MCA, is amended to read:

"13-13-115. Pollbooks. (1) In precincts using paper ballots, the name of each elector who votes shall be entered in a pollbook and numbered in the order voting so that the number corresponds with the number on the stubs of the ballots given the elector or an election judge may use a numbering device to stamp the number of the ballot stub next to the name of the elector in a precinct register/pollbook.

(2) In precincts where machines or devices are used, a

pollbook need be used only for paper ballots. The election administrator shall provide such precincts with some method of recording the number of individuals voting."

Section 12. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot. (1) Application for absentee ballots shall be made by a written request signed by the applicant and addressed to or transmitted by facsimile to the election administrator of the applicant's county of residence.

(2) Application for an absentee ballot may be made by any elector in the United States service by the federal post card application or by any written request signed by the applicant and addressed to or transmitted by facsimile to the election administrator of the applicant's county of residence.

(3) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time the ballot is delivered in person by the special absentee election board provided for in 13-13-225. Such elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered to him by the special absentee election board at his place of confinement, hospitalization, or residence within the county. Such a

request may be made no later than noon on election day."

Section 13. Section 13-14-115, MCA, is amended to read:

"13-14-115. Preparation and distribution of nonpartisan primary ballots. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". They shall be arranged as other primary ballots and be without political designation.

(2) The number of nonpartisan primary ballots and sample ballots furnished shall be the same as other primary ballots.

(3) (a) The governing-body election administrator of a political subdivision may determine that a primary need not be held if:

(a)(i) the number of candidates for an office exceeds twice the number to be elected to that office in no more than one-half of the offices on the ballot; and

(b)(ii) the number of candidates in excess of twice the number to be elected is not more than one for any office on the ballot;-and.

(b) If the election administrator determines that a primary need not be held pursuant to subsection (3)(a), he must give notice to the governing body that no primary election will be held.

(c)(4) the The governing body may require that a

primary election be held if it passes a resolution not more than 7 14 days after the close of filing by candidates for election, stating that a primary election ~~need-not~~ shall be held."

Section 14. Section 13-15-111, MCA, is amended to read:

"13-15-111. Write-in elections -- general election. (1)

An individual elected by having his name written in at the general election and receiving the largest number of votes shall:

(a) file with the secretary of state or election administrator, not later than 10 days after the official canvass, a written declaration indicating his acceptance of the position for which he was elected; and

(b) comply with the provisions of 13-37-225; and

(c) pay the required filing fee or comply with 13-10-203 if indigent.

(2) If an individual fails to file the declaration as required under subsection (1)(a), he may not assume the position for which he was elected."

Section 15. Section 13-15-403, MCA, is amended to read:

"13-15-403. Canvass to be public -- nonessentials to be disregarded -- petition for recount. (1) The canvass shall be public. It shall proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot

issue from each precinct, compiling totals, and declaring or certifying the results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

(3) The returns may not be rejected because of failure to show who administered the oath to the election judges, failure to complete all the certificates in a pollbook, or because of failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

(4) If during a canvass the board finds an error in a precinct or precincts affecting the accuracy of vote totals, the board immediately may petition for a recount of the votes cast in the precinct or precincts, as provided in 13-16-201, or for an inspection of ballots, as provided in [section 16]."

NEW SECTION. **Section 16.** Misplaced or missing ballots.

If during a recount the county recount board discovers that ballots are misplaced or missing, it may petition the election administrator to inspect all sealed ballots within the county precincts to find the misplaced or missing ballots. Upon completion of the recount, the misplaced or missing ballots must be placed in their proper precinct and sealed with the remaining ballots.

Section 17. Section 13-19-106, MCA, is amended to read:

"13-19-106. General requirements for mail ballot election. A mail ballot election must be conducted substantially as follows:

(1) Official ballots must be prepared and all other initial procedures followed as otherwise provided by law, except that mail ballots are not required to have stubs.

(2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

(3) The elector shall mark the ballot at home and place it in a secrecy envelope.

(4) The elector shall then place the secrecy envelope containing his ballot in a return/verification envelope and shall return it by mailing it or delivering it in person to a place of deposit designated by the election administrator so that it is received prior to a specified time on election day.

(5) Once returned, election officials shall first qualify the submitted ballot by examining the return/verification envelope to determine whether it is submitted by a qualified elector who has not previously voted.

(6) If the ballot so qualifies and is otherwise valid, officials shall then open the return/verification envelope and remove the secrecy envelope, which is then voted by

depositing it unopened in an official ballot box.

(7) After the close of polls on election day, voted ballots must be counted and canvassed as otherwise provided by law."

Section 18. Section 13-19-206, MCA, is amended to read:

"13-19-206. Distributing materials to electors -- procedure. For each election conducted under this chapter, the election administrator shall:

(1) mail a single packet to every qualified elector of the political subdivision conducting the election;

(2) ensure that each packet contains only one each of the following:

(a) an official ballot, except that the election administrator may include separate ballots for each type of election being held concurrently;

(b) a secrecy envelope;

(c) a return/verification envelope; and

(d) complete written instructions for voting and returning ballots; and

(3) ensure that each packet is:

(a) clearly marked on its face with the words "DO NOT FORWARD:--RETURN--TO--SENDER:--RETURN--POSTAGE--GUARANTEED." stating the appropriate postal regulation language to prohibit forwarding of the packet;

(b) addressed to a single individual elector at the

1 most current address available from the official
2 registration records; and

3 (c) deposited in the United States mail with sufficient
4 prepaid postage for it to be delivered to the elector's
5 address."

6 **Section 19.** Section 13-19-306, MCA, is amended to read:

7 **"13-19-306. Returning marked ballots -- when -- where.**

8 (1) After complying with 13-19-301, an elector or his
9 designee may return his ballot on or before election day by
10 either:

11 (a) depositing the return/verification envelope in the
12 United States mail, with sufficient postage affixed; or

13 (b) returning it ~~in--person~~ to any place of deposit
14 designated by the election administrator pursuant to
15 13-19-307.

16 (2) In order to have his ballot counted, each elector
17 must return it in such a manner that it is received prior to
18 8 p.m. on election day."

19 **Section 20.** Section 13-19-308, MCA, is amended to read:

20 **"13-19-308. Disposition of ballots returned in person.**

21 Ballots returned by the elector in person must be processed
22 as follows:

23 (1) If returned to the election administrator's office
24 directly, the ballot must be processed in the same manner
25 provided for ballots returned by mail except that, while the

1 elector is present, officials shall:

2 (a) verify the signature pursuant to 13-19-310;

3 (b) resolve any questions as to the validity of the
4 ballot; and

5 (c) deposit the unopened secrecy envelope containing
6 the ballot in the official ballot box.

7 (2) If returned to a place of deposit other than the
8 election administrator's office, the election official on
9 location shall:

10 (a) keep a log of the names of all electors from whom
11 he receives ballots and the names of the people who deliver
12 the ballots;

13 ~~{b}--have-the-elector-sign-the-log-where--his--name--has~~
14 ~~been-entered;~~

15 ~~{c}--while-the-elector-is-present,compare-the-signature~~
16 ~~on-the-return/verification-envelope-with-that-entered-in-the~~
17 ~~log-and-resolve-any-discrepancies-with-the-elector;~~

18 ~~{d}{b}~~ deposit the unopened return/verification
19 envelope in the sealed ballot transport box provided for
20 that purpose; and

21 ~~{e}{c}~~ securely retain all ballots until they are
22 transported to the election administrator's office. The
23 transport boxes must then be opened and the ballots disposed
24 of in the same manner provided for ballots returned by
25 mail."

Section 21. Section 13-19-311, MCA, is amended to read:

"13-19-311. Valid ballots -- requirements. (1) Only valid ballots may be counted in an election conducted under this chapter.

(2) For the purpose of this chapter, a ballot is valid only if:

(a) it is sealed in the secrecy envelope and returned in the return/verification envelope;

(b) the elector's signature on the affidavit on the return/verification envelope is verified pursuant to 13-19-310; and

(c) it is received before 8 p.m. on election day.

(3) A ballot is invalid if:

(a) more than one ballot is enclosed in a single return/verification or secrecy envelope unless there are multiple elections being held at the same time and there is only one ballot for each election in the envelope; or

(b) any identifying marks are placed on the ballot by the elector."

Section 22. Section 13-19-312, MCA, is amended to read:

"13-19-312. Procedure at close of voting. (1) After the close of voting on election day, election officials shall:

~~(1)(a)~~ (a) open the official ballot boxes;

~~(2)(b)~~ (b) open each secrecy envelope, removing the ballot;

and

~~(3)(c)~~ (c) proceed to count the votes as otherwise provided by law.

(2) On election day, the election administrator may begin the procedures described in subsection (1) before the polls close if he complies with the procedures described in 13-15-103."

Section 23. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file the certification, which shall include an organizational statement and set forth the name and address of all other officers, if any, within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee shall be filed with the commissioner and the appropriate ~~county clerk and recorder~~ election administrator as specified for the filing of reports in 13-37-225."

Section 24. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required. (1) Except as provided in 13-37-206, each

1 candidate and political committee shall file periodic
 2 reports of contributions and expenditures made by or on the
 3 behalf of a candidate or political committee. All reports
 4 required by this chapter shall be filed with the
 5 commissioner and with the ~~county-clerk-and-recorder~~ election
 6 administrator of the county in which a candidate is a
 7 resident or the political committee has its headquarters.
 8 However, where residency within a district, county, city, or
 9 town is not a prerequisite for being a candidate, copies of
 10 all reports shall be filed with the ~~county--clerk--and~~
 11 ~~recorder~~ election administrator of the county in which the
 12 election is to be held or, if the election is to be held in
 13 more than one county, with the ~~clerk-and-recorder~~ election
 14 administrator in the county that the commissioner specifies.

15 (2) In lieu of all contribution and expenditure reports
 16 required by this chapter, the commissioner shall accept
 17 copies of the reports filed by candidates for congress and
 18 president of the United States and their political
 19 committees pursuant to the requirements of federal law."

20 NEW SECTION. Section 25. Repealer. Sections 7-13-2237,
 21 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and
 22 7-13-2245, MCA, are repealed.

23 NEW SECTION. Section 26. Codification instruction. (1)
 24 [Section 9] is intended to be codified as an integral part
 25 of Title 13, chapter 10, part 5, and the provisions of Title

1 13, chapter 10, part 5, apply to [section 9].

2 (2) [Section 16] is intended to be codified as an
 3 integral part of Title 13, chapter 16, part 4, and the
 4 provisions of Title 13, chapter 16, part 4, apply to
 5 [section 16].

-End-

HEARING ON SB 358Presentation and Opening Statement by Sponsor:

SEN. THOMAS BECK, Senate District 24, Deer Lodge, introduced SB 358 at the request of his constituent, Larry Dodge, a member of the Libertarian party. SB 358 would review the requirements for a political party to nominate candidates for the primary.

Proponents' Testimony:

Doug Mitchell, Chief Deputy, Secretary of State's Office (SSO), said the SSO "drew" the opinion and requested the attorney general's opinion that determined that third party candidates need to qualify at every general election, instead of only during the presidential year. "We feel that this bill will clarify that. The purging process for voters takes place every four years. SB 358 would be consistent with that. It is a good measure and clarifies the law significantly."

C. B. Pearson, Executive Director, Common Cause/Montana, said they were in support of the bill as they believe "it makes a lot of sense."

Opponents' Testimony: NoneQuestions From Committee Members: NoneClosing by Sponsor:

SEN. BECK closed by thanking the Committee and requesting their support. Rep. Gary Beck will carry the bill in the House.

HEARING ON SB 157Presentation and Opening Statement by Sponsor:

SEN. ELEANOR VAUGHN, Senate District 1, Libby, introduced SB 175, which is an act to generally revise laws relating to elections. The Secretary of State's Office and the Election and Legislative Bureau have worked on SB 157 for two years to try to correct problems relating to election laws. Most of the bill relates to changing the name of clerk and recorder to election administrator since election administrators handle the elections. In most cases, the clerk and recorder and the election administrator are one and the same person. The general areas affected by SB 157 would be special district elections, candidates waiving nonpartisan primary elections, recounts of election results, mail-ballot elections and technical provisions for conducting elections. Sen. Vaughn pointed out the section of the bill that would exclude election judges from unemployment compensation. "We were not aware of the problems that might create with the federal rules on unemployment compensation. The Committee might

want to look at that. Sandy Bay, from the Department of Labor, would be willing to discuss this portion of the bill."

Informational Testimony:

Nancy Harte, Bureau Chief, Election and Legislative Bureau in the Secretary of the State's office, presented the following:

Sect. 1 and 2 refer to changes in the term of clerk and recorder to election administrator. There are seven counties that have a split office. SB 157 will make it clear who has the responsibility.

Sect. 3, 4 and 5 deal with water and sewer district nominations. Under current law, if someone wants to run for a water or sewer district, they must file five separate petitions. Each must be signed and notarized by a different elector to nominate them to the position. In small communities, it is not always easy to find notaries. SB 157 would require only one petition with five signatures and one notary signature. The process would be simpler and similar to what occurs for other nominations.

Sect. 6 refers to fire district trustees. Under current law, state-wide fire district trustees hold staggered terms by practice. There is no procedure in statute to set these up, particularly when a fire district is first established. SB 157 would require a staggered term and the first rotation would be defined.

Sect. 7 deals with pay for the chief election judge. Under current law, all election judges are required to be paid the federal minimum wage. SB 157 would allow the chief election judge, at the county's option, to be paid a higher wage. This would cover some of their additional responsibility.

Sect. 8 refers to the filing date for independent candidates. In Dawson County, a candidate filed for office in the primary election. They lost in the primary election and wanted to run as an independent candidate. There was a District Court decision that said "that was not permitted in that particular circumstance, but (the District Court) did not make a blanket judgment." This section would clarify that an independent candidate could file as late as the day before the primary election, or the (day before the) filing deadline if it was a special district.

Sect. 9 also deals with independent candidates. This section takes care of what is known as the "sore loser problem" where someone running as a partisan candidate loses and immediately wants to run as an independent candidate. The definition of an independent candidate would be tied to an association with a political party. A candidate could not run as a partisan candidate and then seek candidacy as an independent candidate for one year. It would still cover for most two-year cycles.

Sect. 10 refers to the signing of the precinct register when voters first come in to vote. The section that is being deleted is in conflict with the federal voting rights act. The current law says that a person who cannot sign his own name must produce two witnesses. SB 157 would change that requirement so the person would only have to make an identifying mark or a fingerprint in order to vote -- this would conform with federal law.

Sect. 11 deals with the poll books. This has been tried in Ravalli County where it worked quite successfully. When you go to vote, you must first sign the list where your name is located. In the meantime, an election judge next to the person watching you sign your name, is keeping a tally of all the ballots handed out. They are writing your name over again. SB 157 would combine those two positions. It is a technical amendment. It has saved counties a good deal of money as they have one less election judge to hire. This would be done at the county's option.

Sect. 12 deals with the faxing of requests for absentee ballots. This is different from the bill the Committee has already heard about the faxing of the ballot itself. This only deals with the absentee request. It allows a voter to fax their request for an absentee ballot. The ballot would be sent by the usual procedures. It is currently allowed under administrative rule. SB 157 would enter it into statute and clarify it is appropriate to do so.

Sect. 13 deals with when a primary election need not be held. Under current law, in a nonpartisan primary election, if there aren't a sufficient number of candidates filed, the county can waive the primary. What has happened is that there is often a problem with the deadlines and the timing because the county must act within seven days. SB 157 would change that by allowing the election administrator, who would know who has filed and knows if there is a mathematical number to necessitate a primary, to say there will not be a primary and to inform the county commissioners. If the county commissioners decide they do want to have a primary, they can pass a motion requiring a primary.

Sect. 14 deals with write-in candidate filing fees. Under current law, if you are a write-in candidate in the primary, you must pay a filing fee if you are nominated. If you are a write-in candidate in the general election, you pay no fee. SB 157 would require a filing fee for the write-in candidate who wins in a general election. The fee would not be required until after the election. All write-ins would not have to pay the filing fee in advance.

Sect. 15 and 16 deals with the problem that arose in Yellowstone County in the legislative tie vote in the last election. The county had a recount. During the recount, it was discovered that some ballots were missing. It was decided that when the ballots

were "split out" into the various precincts, some of the ballots were put into the wrong precinct pile. The only way the county could look at the ballot envelopes would be with a court order. This is what finally did happen in Yellowstone County. SB 157 would allow a county canvasser to say, "Go ahead and open up the other envelopes where the precinct votes are and find the right ballots and put them back in the right piles and recount them."

Sect. 17 and some subsequent sections deal with mail-ballot elections. Under current law, if a ballot stub is used, a person who is going to vote receives a ballot with a stub. After voting, the secret ballot is to be placed in a secrecy envelope. The ballot stub is to be placed in another envelope. Both of those are then to be put into another envelope. What sometimes happens is they forget the stub or sometimes the stub is placed in the wrong envelope. It is very complicated and causes ballots to be voided for technical reasons. This would eliminate stubs for mail-ballot elections only. It is a very controlled process; there is tracking of the ballots.

Sect. 18 deals with mail ballots for multi-elections. Sometimes a county will have more than one mail-ballot election occurring on the same day. Under current law, they must send out separate ballot envelopes for each and every election and the voters are required to return each one separately. That is a waste of postage and time. SB 157 would allow all ballots to be placed in one envelope.

Sect. 19 and 20 expands the authority to deposit mail-ballot election ballots. SB 157 would allow a designated person, other than the voter, to drop off his completed ballot after it has been voted and sealed into a secrecy envelope. Current law only allows the voter to drop it off.

Sect. 21 also deals with the multi-election forms.

Sect. 22 refers to mail-ballot elections. Under current law, the judges may not start counting the ballots until after 8 p.m. on election day. SB 157 would make the procedure similar to the way that absentee ballots can be counted during the day where a sequestered board begins counting them. This would help to eliminate some of the overtime for election judges.

Sect. 23 and 24 changes the election administrator from the county clerk and recorder in the language of the bill.

Sect. 25 refers to the change Sen. Vaughn mentioned about the unemployment insurance. This covers the state statute dealing with labor law where unemployment insurance is covered. It gives the exclusion on Pg. 26 for election judges.

Sect. 26 is the repealer section for multiple petitions for water and sewer districts.

Proponents' Testimony:

Nancy Harte, Bureau Chief, Election and Legislative Bureau in the Secretary of the State's office, presented written testimony.
EXHIBIT 1

Mike Stephen, Montana Clerk and Recorders' Association, said they support the bill. Elections are very technical and there are many fine points. SB 157 will help the clerk and recorders and election administrators do a better job.

John McCarthy, Lobbyist, Common Cause/Montana, said, "We think it is a good bill. The language that it uses helps to streamline the process. It also protects the elections from disgruntled candidates."

Opponents' Testimony: None

Questions From Committee Members:

REP. WILBUR SPRING said he did not understand the meaning of an independent candidate in Sect. 9, Pg. 9, and where there was a referral to a write-in candidate in Sect. 13 and 14. Is a write-in candidate an independent? He said he was addressing the situation that occurred in Gallatin County where one person was defeated in the primary election. They then "came out" as a write-in candidate. Does that mean that person can't file as a write in. Ms. Harte said, "No, that would not have affected the particular case you are thinking of with Sen. Boylan. Write-in candidates can still file in whatever party they wish." REP. SPRING questioned whether a write-in candidate could file as a write-in candidate? Ms. Harte said that in the primary election, the candidate must file as a party person if they want to be nominated as a party person. In the general election, they don't have to specify the party at all.

REP. SIMPKINS said he would like to know the relationship between the election administrators and the clerks and recorders in the seven counties that have separate offices. Whom do they work for if they are not under the clerks and recorders? Ms. Harte said the county election administrator is appointed by the county commissioners. REP. SIMPKINS asked if they work directly for the county commissioners. Ms. Harte said yes. REP. SIMPKINS said the rest of election administrators work directly for the clerks and recorders, is that right? Ms. Harte said that in the rest of the counties, the clerk and recorder and the election administrator are the same person -- they hold two positions. REP. SIMPKINS said he was concerned because that position was eliminated. He did not know if it was recognized in law as a separate official function versus the elected position of the clerk and recorders office. SB 157 would create a separate title. He wondered whether the laws would conflict. Ms. Harte replied that county election administrators already exist as an appointed position in state election law. It is not addressed in

SB 157 because it did not need to be changed. In 49 counties the clerk and recorders and election administrators are the same person; in 7 counties they are split. In Yellowstone County there is a clerk and recorder who does all the duties of the clerks except election duties. REP. SIMPKINS referred to Sect. 10, Pg. 14, Lns. 14 - 16. "If the elector is not able to sign his name to the precinct register, a fingerprint or other identifying mark may be used." Would a handicapped person have to use a fingerprint rather than just have identification to vote? We now allow someone else to mark the ballot for them if they can't write. Ms. Harte said this section refers to the very first step in voting where the voter must prove to the election judge that they are the person they say they are. With the change, they would continue to have to make the mark or some sort of identification that they are who they say they are, but they do not have to bring two witnesses to prove that. A person can still request someone to assist them in voting the ballot. REP. SIMPKINS asked if a person is totally unable to make a mark, how is that person able to vote? SEN. VAUGHN said if the voter didn't have any hands or legs they must have someone to accompany them to sign papers. "Any identifying object they would have with them I am sure the election judges would accept as a legal means to accept their ballot. They can be helped by any person to mark their ballot. It must be secret." REP. SIMPKINS said if you read (2) and (3) together, it states, "if an elector fails to or refuses to sign his name or if unable to write fails to provide a fingerprint or other identifying mark, he may not vote." Now you're telling me he may. The law simply states . . . he cannot vote. SEN. VAUGHN said, "If you don't feel comfortable with this, I don't think there would be any objections to amending the bill to take care of that. In discussing it with the secretary of state and the election clerks, who work with their judges and do the instructing of the election judges, there didn't seem to be any question in their minds"

REP. JIM SOUTHWORTH said he was very comfortable with the paragraph and he thought Rep. Simpkins was "nit picking."

REP. SIMPKINS referred to Pg. 20, Lns. 9 - 12 where the absentee ballots could be counted early. There has been talk of a noon-time or early pickup of the ballots. Do they have the authority to start counting early pickups and then keep the count secret? Ms. Harte said the section being amended refers only to mail-ballot elections. When there is an early pickup, there is a special absentee board that is sequestered until the closing of the polls. Anyone can observe the absentee board but they must remain sequestered. They can start counting "early pickups" in advance. REP. SIMPKINS referred to Pg. 11, Lns. 1 - 3. Is the number on the ballot and the tab both or just on the tab? Ms. Harte said the number is on the ballot stub. When someone comes in to vote, they sign the precinct register and a poll book is kept that has a running list of the numbers and the person's name is written next to the stub number. The ballot and stub number

are separated when the votes are cast. The stub number does not appear on the ballot.

REP. BETTY LOU KASTEN asked if SB 157 would encourage more counties to hire election administrators? Ms. Harte said, "I don't believe so. . . . It would depend on the nature of the county as to whether or not they needed additional help. REP. KASTEN said that in Dawson County many ballots were declared invalid because of technical problems with the write-in procedure. The result was that anytime there is a clerk and recorder running for office, "you must do something different than what is in law." The clerk and recorder has responsibilities for other duties in the election. Ms. Harte said she did not think SB 157 would change anything as far as the situation in Dawson County. REP. KASTEN asked if whenever a clerk and recorder were running for election in the county, could the commissioners hire an election administrator. Ms. Harte said the county could do whatever they wanted since they were the ones that appointed the county election administrator.

CHAIR BROWN asked if anyone in the audience wanted to address the question about the exclusion of employment insurance. Sandy Bay, Department of Labor, said the amendment to the bill exempting election judges from unemployment insurance coverage would create a conformity issue for federal unemployment tax purposes. She received a letter from the Denver regional office that states the exemption would create a conformity issue. The consequences of this would be that Montana employers could see a loss of the tax credits of 5.8 percent that they currently receive. It could also result in the loss of administrative funds for the Unemployment Insurance Program.

REP. CAROLYN SQUIRES asked Bob Jensen if the exclusion bill passed by the Labor and Employment Relations Committee would take care of this problem. Bob Jensen, Administrator, Unemployment Insurance Division, Department of Labor and Industry, said he did not think that in this instance it would relate to Workers' Compensation at all. This is just strictly a conformity issue on Unemployment Insurance. He said he hadn't looked at SB 157 in that regard, but they would look at it before the Committee was to take executive action if they wished. REP. SQUIRES said she would like them to do that.

Closing by Sponsor:

SEN. VAUGHN said she did not think SB 157 would cause more election administrators to be appointed. The law is already there if the county wanted to appoint election administrators. SB 157 would just clarify the election laws and make it easier for small districts to hold elections. Many people working as election judges are housewives and people who have no other means of employment. The minute they receive a check, they try to draw unemployment. That has created paper work. Since it is such a minor amount of pay they receive, it was felt they should be

excluded. She said she would appreciate Mr. Jensen and the Committee looking into the problem so the state would not lose any rights to unemployment monies. Rep. Cocchiarella will carry the bill in the House.

CHAIR BROWN asked Rep. Simpkins if he wanted to pursue looking at the section that he was concerned with regarding the fingerprint and the other marking. REP. SIMPKINS requested Sheri Heffelfinger to draft an amendment that would allow the election judge to verify the record based upon identification.

CHAIR BROWN requested Sheri Heffelfinger to work on an amendment with Rep. Simpkins.

HEARING ON SB 399

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, Senate District 26, Thompson Falls, introduced SB 399 at the request of a constituent to make initiative petitions available for signing in each county courthouse. The secretary of state shall make copies of the initiatives available in each of the county seats as well as signature sheets. The secretary of state informed Sen. Svrcek that they already must make the petitions available in the clerk and recorders' offices in each of the counties. It would be relatively simple to include signatory sheets. "I am not advocating anything fancy or any grand scheme or new program. I envision this as being something as simple as the clerk and recorder hanging a clipboard on the wall with a sign above it that says these are the initiatives that are being considered and are available for signatures this year."

Proponents' Testimony:

Doug Mitchell, Chief Deputy, Secretary of State's Office, said they support SB 399. This is a fairly simple bill. We already provide the clerks and recorders with a copy of every petition that has qualified to be submitted to the electorate for signatures. We would, in addition, stamp the petition to notify the clerks and recorders that this petition is for publication and is to be placed for public review with a signature sheet for the appropriate petition. They would then have these available for the public to sign. There are a "couple of distinct advantages:" 1) one needs to be a registered voter in order for their signature to be counted. The voter could check in the Clerk and Recorder's office to see if they are registered. 2) this would give an individual, who is uncomfortable with people requesting their signature on a petition, the opportunity to say they would prefer doing this at the Clerk and Recorder's Office where they can check to make sure they were registered to vote. It will not cost the taxpayers any money. There was some spirited debate on SB 399 in the Senate. Most of it revolved around the additional functions that would be mandated for the

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 3/12/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JAN BROWN, CHAIR	✓		
REP. VICKI COCCHIARELLA, VICE-CHAIR			✓
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS			
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		

SECRETARY OF STATE

STATE OF MONTANA

FILED 1
DATE 3-12-91
SB 157

Mike Cooney
Secretary of State



Montana State Capitol
Helena, MT 59620

TESTIMONY -- HOUSE STATE ADMINISTRATION COMMITTEE ON SENATE BILL 157, MARCH 12, 1991

Madam Chairwoman and members of the committee, my name is Nancy Harte; I am the Bureau Chief of the Elections and Legislative Bureau in the Secretary of State's office.

I am testifying today in support of Senate Bill 157, which was drafted at the request of Secretary of State Mike Cooney.

As Senator Vaughn discussed in her opening remarks, this legislation came about through cooperative efforts between the Secretary of State's office and the local election administrators.

As we developed this legislation, we were careful to consider the opinions of these administrators who actually conduct the elections on a local level. We knew that the county clerks and recorders wanted legislation that would not only correct the inconsistencies and problems in election law, but legislation that would be practical to apply. We think Senate Bill 157 does that.

While this election law clean-up will be useful to the election administrators, the Secretary of State also insisted that any proposed election revision must make elections more fair, less costly and easier to understand for the public and candidates.

We know that everyone involved in the electoral process has their opinions about what's wrong, and right, with the law. This bill does not include, by any means, an exhaustive inventory of every problem that might be fixed. Questions continually arise about the appropriateness and consistency of election law.

So while Senate Bill 157 is not a cure-all, it does represent a collaborative effort that will solve most of the problems for most of the people most of the time.

I urge your support of Senate Bill 157. At this point, I will take a few moments to review the changes proposed in the bill.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. SB 157

DATE 3/12/91

SPONSOR(S) SEN. VAUGHN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John McCutty	Common Cause/MT	157		✓
Nancy Harte	Secretary of State	157		✓
Mike Stepha	MT Clerk of Records	157		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Discussion:

CHAIR BROWN said that the Committee has already passed one amendment.

Ms. Heffelfinger distributed Rep. Simpkins' amendment. EXHIBIT 17

Motion: REP. SIMPKINS moved his amendment.

Discussion:

Ms. Heffelfinger explained the amendment saying that she had worked on the language of the amendment with Peter Funk at the attorney general's office. The amendment would read "that the marking of a ballot in a manner similar to, but not limited to, the following example. . . . It gives the example, but it gives some flexibility so you don't have to say for or against on a ballot initiative."

Vote: SB 156 REP. SIMPKINS' AMENDMENT DO PASS. The motion carried unanimously.

Motion/Vote: REP. SIMPKINS MOVED SB 156 BE CONCURRED IN AS AMENDED. The motion carried 17 - 2 with Reps. Bergsagel and Roger DeBruycker voting no. EXHIBIT 17A

CHAIR BROWN announced that the bill will be carried in the House by Rep. Squires.

EXECUTIVE ACTION ON SB 157

Motion: REP. COCCHIARELLA MOVED SB 157 BE CONCURRED IN and moved Rep. Squires' amendments.

Discussion:

Ms. Heffelfinger explained the amendments saying that Rep. Squires had requested the amendment after talking to the U.S. Department of Labor about their concern for the exemption for judges from unemployment insurance. A compromise could not be worked out where you could do that and not risk losing some funds from the federal government and their unemployment tax credits. The amendments change the title and removes exempting election judges from unemployment insurance coverage. This is also done in the bill by striking Sect. 25, Pg. 22. The only item in that section was to exempt election judges from unemployment insurance. EXHIBIT 18

Vote: SB 157 REP. SQUIRES' AMENDMENTS DO PASS. The motion carried unanimously.

Motion/Vote: REP. COCCHIARELLA MOVED SB 157 BE CONCURRED IN AS AMENDED. The motion carried 14 to 5 with Reps. Roger DeBruycker, Feland, Kasten, Hayne and Simpkins voting no. EXHIBIT 18A

DISCUSSION ON SB 241

CHAIR BROWN said that several people have commented to her, since the tabling of the bill, that there may be some interest in doing something with SB 241. Ms. Heffelfinger has said that she could work on the bill if there is enough interest.

REP. BECK said he would like to see the bill tabled because there was only one instance (when Mr. Driscoll received dual compensation). He said he believes that very few people would make (the same) decision that (Mr. Driscoll) made. Also, "there might be some other questions that might affect national guard and reserve people that could have a very bad effect on them."

REP. COCCHIARELLA said she disagreed with Rep. Beck and that the Committee needs to deal with the issue in some manner to protect the people that work in those positions, and to make a statement to the people in that state that "that is not our intention."

REP. FELAND said he thought the bill was "really nothing but a witch hunt. We read about it in the newspaper. I don't see a big deal in it."

REP. GALVIN said he would like to ask if a survey could be done to see just how many times "this situation has arisen."

Ms. Heffelfinger said she would have to research the question. As far as she knew, this was the only instance. Currently, Commissioner Driscoll is the only member of the National Guard who is a state-wide elected official. The bill would just not affect him. If the bill were put into law, it would affect all state officials in the future.

REP. BARNHART said that she had voted to table the bill because she thought it was only for the one instance. "However, I don't believe that an elected official should receive two pay checks from two different governments. I would like to have it in law. I am torn on this."

CHAIR BROWN asked Ms. Heffelfinger how much work would be required on the bill and what would she propose to do.

Ms. Heffelfinger said that she could do what the Committee decides. The bill could be left as it is, or she could suggest different options. The way the bill is written, it actually reduces the salary by the amount of salary received from the federal government. If a person were making \$1 thousand from the state in a month, and then goes on reserve duty and receives \$2 thousand from the federal government, the reservist does not

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 3/13/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JAN BROWN, CHAIR	✓		
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS	✓		
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		

12:40
3-13-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 157 (third reading copy -- blue) be concurred in as amended.

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Title, lines 11 and 12.

Following: "TRUSTEES;" on line 11

Strike: "EXEMPTING" on line 11 and line 12 in its entirety

2. Title, line 17.

Following: "AND"

Insert: "AND"

Following: "13-37-225,"

Strike: "AND 39-51-204,"

3. Page 22, line 1 through page 27, line 20.

Strike: section 25 in its entirety

Renumber: subsequent sections

Amendments to Senate Bill No. 157
Third Reading Copy

Requested by Representative Carolyn Squires
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Title, lines 11 and 12.
Following: "TRUSTEES;" on line 11
Strike: "EXEMPTING" on line 11 and line 12 in its entirety
2. Title, line 17.
Following: "AND"
Insert: "AND"
Following: "13-37-225,"
Strike: "AND 39-51-204,"
3. Page 22, line 1 through page 27, line 20.
Strike: section 25 in its entirety
Renumber: subsequent sections

EXHIBIT 18A
DATE 3/13/91
~~HB~~ SB 157

Amendments to Senate Bill No. 157
Third Reading Copy

Requested by Representative Carolyn Squires
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Title, lines 11 and 12.
Following: "TRUSTEES;" on line 11
Strike: "EXEMPTING" on line 11 and line 12 in its entirety
2. Title, line 17.
Following: "~~AND~~"
Insert: "AND"
Following: "13-37-225,"
Strike: "AND 39-51-204,"
3. Page 22, line 1 through page 27, line 20.
Strike: section 25 in its entirety
Renumber: subsequent sections

Chairperson Vaughn handed the gavel to Vice Chairman Pipinich so that she could present Senate Bill 157.

HEARING ON SENATE BILL 157

Presentation and Opening Statement by Sponsor:

Senator Vaughn, Senate District #1 representing most of Lincoln County, said that Senate Bill 157 is presented at the request of the Secretary of State's office. For the past 2 years the Secretary of State's staff has kept track of inconsistencies and problems they and county election administrators have found in the state election laws. An election advisory council was formed in 1989 and it's task was to review proposed legislative changes. The council also proposed additional changes. This council presented these ideas on legislation as resolutions at the 1990 clerk and recorders annual convention, which adopted most of these resolutions. With the assistance of most of the state's election administrators, the Secretary of States office prepared this general revision of these election laws.

Proponents' Testimony:

Nancy Harte, Bureau Chief of the Election Bureau, Secretary of State's office, read her testimony in support of Senate Bill 157. (exhibit 4) She read through the bill with the senators. She explained at length Section 9 which deals with independent candidates filing for election. This is based on California law that has been proven constitutional, which requires that a candidate not be affiliated with a political party for 1 year. Section 10 is eliminated because it has been declared unconstitutional on the federal level. Section 11 eliminates the pollbook, simplifies that part of the voting process, and eliminates 1 election judge at the polls. Section 12 provides for faxing a request for absentee ballot. Section 13 provides that a primary election can be called off in certain circumstances. Section 14 deals with write-in candidates and they must pay the required filing fee if elected. Section 15 deals with the problem where there is a tie vote and there must be a recount and inspection of ballots, this allows county commissioners to find the lost ballots without going to court. Section 17 defines and simplifies mailed ballots.

Betty Lund supports 99% of the changes in this bill. She offered an amendment. (Exhibit 3) She left a copy of her testimony (Exhibit 6)

C. B. Pearson, Executive Director of Common Cause, supports this bill.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Burnett told of a tie vote being decided by the choice of a coin, which process was outlined by the Secretary of State's office. Nancy Hart responded that the law says it had to be done by lot. The local election judge has to make the decision.

Senator Blaylock asked if in Section 5 on fire districts any notary was necessary? Betty Lund said they do need 1 notary on a candidate.

Senator Blaylock asked if this prohibits a loser in a primary coming back as an independent in the general election? Nancy Harte said yes that is what would happen.

Senator Burnett asked about the regulations surrounding filing under a certain party, after they have run on another party, does that eliminate them from running at all? Garth Jacobson, attorney for the Secretary of State's office, explained that in the case "Anderson vs. Celebresy" Anderson wanted to run for president as an independent and he challenged the Ohio election laws and was successful in convincing the Supreme Court that it's not fair for independent candidates to file early on. What we have here is an attempt to head off a constitutional challenge that could occur from a legitimate independent candidate, who did not have any partisan ties. So they have an opportunity to file up to the date of the primary election in this legislation. They can not have any affiliation with any party for 1 year prior to the filing deadline. That is constitutionally permissible.

Senator Burnett asked if a person loses as a partisan candidate can he come back in 2 years as an independent? Garth Jacobson answered that he could.

Senator Anderson stated that write-in campaigns come under a different section and they are permissible.

Senator Blaylock asked if the sanctity of the ballot is still protected if you do away with the stub procedure? Nancy Harte answered that mail ballot procedures are much more tightly covered than machine voting.

There was discussion about absentee ballots, early voting at the clerk and recorder's office, and sick people's ability to vote.

Senator Blaylock said he agreed with the amendment about the exemption from unemployment insurance.

Senator Rea asked if there are any other elections that might prevent a person from running in a different office. Garth Jacobson said this would only apply to that election and it doesn't matter what office you run for. You can still run for another office in another election. The only limitation is you

can't have a party affiliation if you want to run as an independent candidate. Most elections are on a 2 year cycle. This section is labeled the "sore loser statute".

Senator Vaughn asked that an amendment be drawn on Section 16 to add a sentence that says, "After receiving the petition the election administrator shall inspect the ballot." This gives the directive of what needs to be done.

Closing by Sponsor:

Senator Vaughn said as an ex-clerk and recorder she can relate to many of the problems on the absentee ballot or people coming to vote the day before. In some counties the polls open at 7 A.M. and the transportation crew needs time to set up. They need time to get ready for the election. All counties give out information on voting deadlines, etc. This is correcting things that needed to be corrected. She hopes the committee will pass this bill.

ADJOURNMENT

Adjournment At: 12:05 P.M.



ELEANOR VAUGHN, Chairman



DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE Jan 28, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL			excused
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			excused

Each day attach to minutes.

DATE Jun 28, 1991

COMMITTEE ON State Administration

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Amendment to SB 157

Page 1 line 10.

Insert following TRUSTEES: EXEMPT ELECTION JUDGES FROM
UNEMPLOYMENT INSURANCE COVERAGE;

Page. 1

Line 15

Insert before "MCA": 39-51-204,

Page. 8

Section 7

Following Line 2

Insert following session.

"Election judges shall be exempt from unemployment insurance for
the services performed in this chapter.

Amend 39-51-204, MCA by inserting a new subsection with the
following language:

The services performed by election judges pursuant to title 13
chapter 4.

TESTIMONY -- SENATE STATE ADMINISTRATION COMMITTEE
ON SENATE BILL 157, JANUARY 28, 1991

Mr. Chairman and members of the committee, my name is Nancy Harte; I am the Bureau Chief of the Elections and Legislative Bureau in the Secretary of State's office.

I am testifying today in support of Senate Bill 157, which was drafted at the request of Secretary of State Mike Cooney.

As Senator Vaughn discussed in her opening remarks, this legislation came about through cooperative efforts between the Secretary of State's office and the local election administrators.

As we developed this legislation, we were careful to consider the opinions of these administrators who actually conduct the elections on a local level. We knew that the county clerks and recorders wanted legislation that would not only correct the inconsistencies and problems in election law, but legislation that would be practical to apply. We think Senate Bill 157 does that.

While this election law clean-up will be useful to the election administrators, the Secretary of State also insisted that any proposed election revision must make elections more fair, less costly and easier to understand for the public and candidates.

We know that everyone involved in the electoral process has their opinions about what's wrong, and right, with the law. This bill does not include, by any means, an exhaustive inventory of every problem that might be fixed. Questions continually arise about the appropriateness and consistency of election law.

So while Senate Bill 157 is not a cure-all, it does represent a collaborative effort that will solve most of the problems for most of the people most of the time.

I urge your support of Senate Bill 157. At this point, I will take a few moments to quickly review the changes proposed in the bill.

COUNTY

OF

RAVALLI

EXHIBIT NO. 6DATE 1-28-91BILL NO. 513STATE 15

OF

MONTANA

SENATE STATE ADMIN.

EXHIBIT NO. _____

HAMILTON, MONTANA 5984

January 28, 1991 DATE _____

BILL NO. _____

Madam Chairman and Members of the Committee:

For the record, I am Betty T. Lund, Ravalli County Clerk & Recorder/Election Administrator, member of the Secretary of State's Election Advisory Council and member of the Montana Association of Clerks & Recorders' legislative committee.

I would like to urge for a DO PASS for SB 157. Every two years, we seem to bring in legislation to correct election laws. Know you all wish that someday we would get all the corrections done. These changes in the election laws have come into the Secretary of States office as problems that Election Administrators were having throughout the state of Montana. With the help of the Advisory Council, the Secretary of State has pulled all the little problems into one big solution. The Honorable Mike Cooney and his staff, being "new kids" on the block, have brought fresh insight into perhaps old antiquated methods. Some of these are addressed in this bill. Some of the changes are to conform with Federal legislation. Some are new procedures to make the line at the polling places move speedily. Some also are changes to save taxpayer dollars.

In every legislature we are trying to make election laws more efficient and cost effective. Please feel free to ask questions of me.

Thank you for your DO PASS vote on SB 157.

Sincerely,



Betty T. Lund

Ravalli County Clerk & Recorder

Motion:

Chairperson Vaughn said that Senate Bill 156 is legislation surrounding referendums and initiatives. Nancy Harte brought in a compromise amendment on the amount of time to have the signatures verified for a legal referendum. It will still allow Clerk and Recorders 4 weeks to verify signatures. They took 1 week off the initiative collector's side and a week off the Secretary of State's side. Senator Hockett MOVED to adopt the AMENDMENTS. (Exhibit 2)

Discussion:

Senator Pipinich asked should this read Attorney General "may" or "shall"? Nancy Harte thought the A. G. wanted the "may" left in.

Amendments, Discussion, and Votes:

The VOTE on the AMENDMENTS presented in exhibit 2 was UNANIMOUS IN FAVOR OF ADOPTION.

Senator Blaylock said it is almost impossible to get both sides together and that's why they want that left discretionary. The committee feels that if necessary the Attorney General will do it.

Attorney Niss presented the amendment that had been prepared at the suggestion of the Secretary of State. (Exhibit 3) Senator Pipinich MOVED to accept the AMENDMENTS presented in exhibit 3. Senator Blaylock moved to AMEND the AMENDMENT after the word "state" on the first line to delete the word "may" and add "shall upon request".

Would the word "may" enable the Secretary of State to not give the sample petition form? Nancy Harte responded that the petitioner doesn't have to use their form, just that one is available if they so desire.

The VOTE on the motion to AMEND the AMENDMENT to say the "Secretary of State shall upon request provide..." was UNANIMOUS. The VOTE on Senator Pipinich's motion to accept the AMENDMENTS AS AMENDED page 9, line 18 as outlined in exhibit 3 was UNANIMOUS.

Recommendation and Vote:

Senator Blaylock MOVED SENATE BILL 156 DO PASS AS AMENDED. The VOTE was UNANIMOUS to pass S. B. 156 as amended.

EXECUTIVE ACTION ON SENATE BILL 157Discussion:

Chairperson Vaughn said Senate Bill 157 is legislation

updating the election laws. One thing this will do is eliminate the pollbooks, which cost \$2.00 each and an extra judge to complete them. Now the numbering machine puts the number of the ballot next to the name of the person when they come in, then there would be a certificate at the back of the register to indicate the number who had voted. If there are paper ballots, you must have the pollbook. This eliminates the confusion in absentee balloting, also. If the county has voting machines, they don't need to provide paper ballots.

Amendments, Discussion, and Votes:

Senator Rea remembered the amendments that had been offered during the hearing. (Exhibit 4) Attorney Niss explained the amendment and that it clarifies exempting election judges from unemployment insurance coverage.

Senator Blaylock MOVED to ACCEPT THE AMENDMENT to SENATE BILL 157 as outlined in exhibit 4. The VOTE was UNANIMOUS in favor of the amendments to Senate Bill 157.

Attorney Niss presented another amendment about revising the laws relating to county water and sewer district elections and what to do with misplaced ballots. (Exhibit 5)

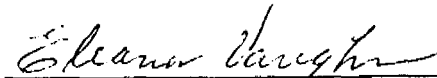
Senator Hockett MOVED to ACCEPT THE AMENDMENT to SENATE BILL 157 as outlined in exhibit 5. The VOTE on the AMENDMENT as outlined in exhibit 5 was UNANIMOUS.

Recommendation and Vote:

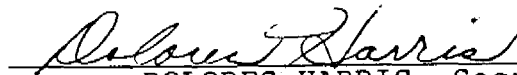
Senator Burnett MOVED to DO PASS AS AMENDED SENATE BILL 157. The VOTE was UNANIMOUS in favor of passing Senate Bill 157.

ADJOURNMENT

Adjournment At: 11:15



ELEANOR VAUGHN, Chairman



DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE 1-29-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ			<i>excused</i>
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			<i>excused</i>

Each day attach to minutes.

Amendments to Senate Bill No. 157
First Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
January 29, 1991

1. Title, line 10.
Following: "TRUSTEES;"
Insert: "EXEMPTING ELECTION JUDGES FROM UNEMPLOYMENT INSURANCE
COVERAGE;"
2. Page 1, line 14.
Strike: "AND"
3. Page 1, line 15.
Following: the first comma
Insert: "AND 39-51-204,"
4. Page 8, line 2.
Following: the period
Insert: "Election judges are exempt from unemployment insurance
coverage for services performed pursuant to this chapter."
5. Page 21.
Following: line 19
Insert: " Section 1. Section 39-51-204, MCA, is amended to read:
"39-51-204. Exclusions from definition of employment. (1)
The term "employment" does not include:
 (a) agricultural labor, except as provided in 39-51-203(8);
 (b) domestic service in a private home, local college club,
or local chapter of a college fraternity or sorority, except as
provided in 39-51-203(9);
 (c) service performed as an officer or member of the crew
of a vessel on the navigable waters of the United States;
 (d) service performed by an individual in the employ of
that individual's son, daughter, or spouse and service performed
by a child under the age of 21 in the employ of the child's
father or mother;
 (e) service performed in the employ of any other state or
its political subdivisions or of the United States government or
of an instrumentality of any other state or states or their
political subdivisions or of the United States, except that

national banks organized under the national banking law shall not be entitled to exemption under this subsection and shall be subject to this chapter the same as state banks, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act;

(f) service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress, provided that the department must enter into agreements with the proper agencies under such act of congress, which agreements shall become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under such act of congress or who have, after acquiring potential rights to unemployment insurance under such act of congress, acquired rights to benefits under this chapter;

(g) services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of 18 years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution;

(h) services performed by real estate, securities, and insurance salespeople paid solely by commissions and without guarantee of minimum earnings;

(i) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university or by the spouse of such a student if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and such employment will not be covered by any program of unemployment insurance;

(j) service performed by an individual who is enrolled at a nonprofit or public educational institution, which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution which combines academic instruction with work experience if such service is an integral part of such program and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(k) service performed in the employ of a hospital if such service is performed by a patient of the hospital;

(l) services performed by a cosmetologist who is licensed under Title 37, chapter 31, or a barber who is licensed under Title 37, chapter 30, and who has acknowledged in writing that he is not covered by unemployment insurance and workers' compensation and who contracts with a cosmetological establishment as defined in 37-31-101 or a barbershop as defined in 37-30-101, which contract shall show the cosmetologist or

barber is free from all control and direction of the owner in the contract and in fact; receives payment for services from his or her individual clientele; leases, rents, or furnishes all of his or her own equipment, skills, or knowledge; and whose contract gives rise to an action for breach of contract in the event of contract termination (the existence of a single license for the cosmetological establishment or barbershop shall not be construed as a lack of freedom from control or direction under this subsection);

(m) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. "Regularly employed" means the services are performed during at least 24 days in the same quarter.

(n) services performed for the installation of floor coverings if the installer:

(i) bids or negotiates a contract price based upon work performed by the yard or by the job;

(ii) is paid upon completion of an agreed upon portion of the job or after the job is completed;

(iii) may perform services for anyone without limitation;

(iv) may accept or reject any job;

(v) furnishes substantially all tools and equipment necessary to provide the services; and

(vi) works under a written contract that:

(A) gives rise to a breach of contract action if the installer or any other party fails to perform the contract obligations;

(B) states the installer is not covered by unemployment insurance; and

(C) requires the installer to provide a current workers' compensation policy or to obtain an exemption from workers' compensation requirements.

(o) service performed by an election judge pursuant to title 13, chapter 4.

(2) "Employment" does not include elected public officials.

(3) For the purposes of 39-51-203(6), the term "employment" does not apply to service performed:

(a) in the employ of a church or convention or association of churches or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by such order;

(c) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be

readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(d) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or any agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or

(e) for a state prison or other state correctional or custodial institution by an inmate of that institution."

EXHIBIT NO. 5DATE 1-29-91BILL NO. SB157

Amendments to Senate Bill No. 157
First Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
January 29, 1991

1. Title, line 6.

Following: "ELECTIONS;"

Insert: "REVISING THE LAWS RELATING TO COUNTY WATER AND SEWER
DISTRICT ELECTIONS;"

2. Page 14, line 22.

Following: the period

Insert: "Upon receiving the petition, the election administrator
shall inspect the sealed ballots to find the misplaced or
missing ballots."

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
January 29, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill NO. 157 (first reading copy -- white), respectfully report that Senate Bill NO. 157 be amended and as so amended do pass:

1. Title, line 6.

Following: "ELECTIONS;"

Insert: "REVISING THE LAWS RELATING TO COUNTY WATER AND SEWER
DISTRICT ELECTIONS"

2. Title, line 10.

Following: "TRUSTEES;"

Insert: "EXEMPTING ELECTION JUDGES FROM UNEMPLOYMENT INSURANCE
COVERAGE;"

3. Page 1, line 14.

Strike: "AND"

4. Page 1, line 15.

Following: the first comma

Insert: "AND 39-51-204,"

5. Page 8, line 2.

Following: the period

Insert: "Election judges are exempt from unemployment insurance
coverage for services performed pursuant to this chapter."

6. Page 14, line 22.

Following: the period

Insert: "Upon receiving the petition, the election administrator
shall inspect the sealed ballots to find the misplaced or
missing ballots."

7. Page 21.

Following: line 19

Insert: " Section 1. Section 39-51-204, HCA, is amended to read:
"39-51-204. Exclusions from definition of employment. (1)

The term "employment" does not include:

(a) agricultural labor, except as provided in 39-51-203(8);

(b) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in 39-51-203(9);

(c) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(d) service performed by an individual in the employ of that individual's son, daughter, or spouse and service performed by a child under the age of 21 in the employ of the child's father or mother;

(e) service performed in the employ of any other state or its political subdivisions or of the United States government or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national banking law shall not be entitled to exemption under this subsection and shall be subject to this chapter the same as state banks, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act by section 3306(c)(7) of that act;

(f) service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress, provided that the department must enter into agreements with the proper agencies under such act of congress, which agreements shall become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under such act of congress or who have, after acquiring potential rights to unemployment insurance under such act of congress, acquired rights to benefits under this chapter;

(g) services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of 18 years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution;

(h) services performed by real estate, securities, and insurance salespeople paid solely by commissions and without guarantee of minimum earnings;

(i) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university or by the spouse of such a student if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and such employment will not be covered by any program of unemployment insurance;

(j) service performed by an individual who is enrolled at a nonprofit or public educational institution, which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution which combines academic instruction with work experience if such service is an integral part of such program and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(k) service performed in the employ of a hospital if such service is performed by a patient of the hospital;

(l) services performed by a cosmetologist who is licensed under Title 37, chapter 31, or a barber who is licensed under Title 37, chapter 30, and who has acknowledged in writing that he is not covered by unemployment insurance and workers' compensation and who contracts with a cosmetological establishment as defined in 37-31-101 or a barbershop as defined in 37-30-101, which contract shall show the cosmetologist or barber is free from all control and direction of the owner in the contract and in fact; receives payment for services from his or her individual clientele; leases, rents, or furnishes all of his or her own equipment, skills, or knowledge; and whose contract gives rise to an action for breach of contract in the event of contract termination (the existence of a single license for the cosmetological establishment or barbershop shall not be construed as a lack of freedom from control or direction under this subsection);

(m) casual labor not in the course of an employer's trade or business performed in any calendar quarter, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. "Regularly employed" means the services are performed during at least 24 days in the same quarter.

(n) services performed for the installation of floor coverings if the installer:

(i) bids or negotiates a contract price based upon work performed by the yard or by the job;

(ii) is paid upon completion of an agreed upon portion of the job or after the job is completed;

(iii) may perform services for anyone without limitation;

(iv) may accept or reject any job;

(v) furnishes substantially all tools and equipment necessary to provide the services; and

(vi) works under a written contract that:

(A) gives rise to a breach of contract action if the installer or any other party fails to perform the contract obligations;

(B) states the installer is not covered by unemployment insurance; and

(C) requires the installer to provide a current workers' compensation policy or to obtain an exemption from workers' compensation requirements.

(1) service performed by an election judge pursuant to title 13, chapter 4.

(2) "Employment" does not include elected public officials.

(3) For the purposes of 39 51-203(6), the term "employment" does not apply to service performed;

(a) in the employ of a church or convention or association of churches or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(b) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the church's ministry or by a member of a religious order in the exercise of duties required by such order;

(c) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(d) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or any agency of a state or political subdivision thereof by an individual receiving such work relief or work training; or

(e) for a state prison or other state correctional or custodial institution by an inmate of that institution."

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

JGA 1-29-91
Asst. Coord.

SR 1-29 1:30
Sec. of Senate